

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.246 of 2017**

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Raj Kishore Rai

.... Appellant/s

Versus

Rajendra Rai & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Binode Bariar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

- 2 10-02-2017 **1.** It appears that by the impugned order dated 23.09.2016, the learned Sub Judge VIth Saran at Chapra in Final decree case No.138 of 2000 has refused to recall the order dated 20.04.2016 whereby the pleader commissioner's report was confirmed after rejecting the objection application.
- 2.** It may be mentioned here that the partition suit was finally decided when the objection was rejected and pleader commissioner's report was confirmed on 20.04.2016, therefore, it is a decree within the meaning of the term 'decree' under Section 2 sub Section 2 CPC and Appeal is maintainable against the said decree. Therefore, there is no provision for recall of the decree.
- 3.** From perusal of the impugned order, it appears that the petitioner filed application for recall of the decree which has been rejected by the Court below.



4. In view of the above facts and circumstances of the case, in my opinion, no case for exercise of supervisory jurisdiction is made out. However, the petitioner, if so advised, may file Appeal against the order confirming the pleader commissioner report, subject to limitation.

5. Thus, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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